

June 15, 2020

VIA E-MAIL AND U.S. MAIL

MEMBER AGENCIES

Carlsbad
Municipal Water District

City of Del Mar

City of Escondido

City of National City

City of Oceanside

City of Poway

City of San Diego

Fallbrook
Public Utility District

Helix Water District

Lakeside Water District

Olivenhain
Municipal Water District

Otay Water District

Padre Dam
Municipal Water District

Camp Pendleton
Marine Corps Base

Rainbow
Municipal Water District

Ramona
Municipal Water District

Rincon del Diablo
Municipal Water District

San Dieguito Water District

Santa Fe Irrigation District

South Bay Irrigation District

Vallecitos Water District

Valley Center
Municipal Water District

Vista Irrigation District

Yuima
Municipal Water District

OTHER
REPRESENTATIVE

County of San Diego

Keene Simonds
Executive Officer
San Diego County Local Agency Formation Commission
9335 Hazard Way, Suite 200
San Diego, CA 92123
E-Mail: Keene.Simonds@sdcounty.ca.gov

Re: LAFCO Advisory Committee Re Detachment

Dear Mr. Simonds:

Based on your recent communications regarding the potential first meeting date of the LAFCO Advisory Committee (“Committee”) regarding the detachment applications of Fallbrook Public Utilities District (“Fallbrook”) and Rainbow Municipal Water District (“Rainbow”), we felt it would be helpful to LAFCO, the Committee, and all parties to have an understanding of what the scope of the Committee’s efforts should be, and the types of independent consultants that will be necessary for LAFCO to perform necessary due diligence associated with the applications. In connection with those determinations, the Water Authority writes to provide you with some initial information and input.

First, we wanted to thank you and the LAFCO Commissioners, and Fallbrook and Rainbow, for working to create the Committee. We think a Committee review process will be helpful for all participants to understand the full complexity of the proposed detachments, and to ensure fairness and equity for all San Diego County water ratepayers and property owners.

The Water Authority Board will be meeting on June 25, and at that meeting we will discuss the appointment of the two Water Authority designated Committee members. We will let you and the other parties know then who that will be, with the understanding this timing will allow you to proceed with the first Committee meeting on July 6.

1. Committee Scope of Work

Though you previously presented some very general concepts of what the Committee would consider, we think it would be helpful to break down certain issues in a bit more detail to frame what we see as critical areas of inquiry and due diligence. Then, in the next section, we address the subject matters as to which we believe LAFCO will need to engage independent consultants.

As background, my Board of Directors has determined that the scope of work must be sufficient to demonstrate:

- a. By what means Rainbow and Fallbrook can guarantee that all obligations as promised to their own ratepayers are met;
- b. That detachment will not adversely affect other Water Authority member agencies and San Diego County as a region financially or environmentally;
- c. That detachment and then annexation into Riverside County's Eastern Municipal Water District will not increase reliance on the Bay-Delta; and
- d. That detachment will not result in a diminution of the Water Authority's voting power at MWD to represent the interests of all San Diego County ratepayers and property owners.

In order to analyze these issues identified in the Water Authority's Board resolution, we suggest the following subject areas be included in the scope of the Committee's work:

1. Water Supply & Reliability Issues: The Committee must fully examine data analyzing the reliability of the current and projected water supply being provided to Fallbrook and Rainbow customers by the Water Authority, and the current and projected water supply that they would receive from Metropolitan Water District of Southern California ("MWD") via Eastern as an intermediary. (Eastern does not propose making any of its own water supply or infrastructure available to serve Rainbow and Fallbrook customers.) Full transparency as to current and projected water supply needs, sources, challenges and limitations on those sources, and water supply reliability for Rainbow and Fallbrook and the entire County should be critical for LAFCO. This will necessarily require an understanding of California water law and policy, the Colorado River, the State Water Project and Bay-Delta, and numerous other local, state and federal legal, regulatory and political matters.
2. Water Infrastructure Issues: There are a number of engineering issues relating to needed water infrastructure raised by the proposed detachments. Just by way of example, Rainbow's application references at least \$15 million of infrastructure projects it would need to complete immediately if detachment were to occur, but the entire scope of the projects is not identified with any specificity.¹ All necessary infrastructure changes need to be fully detailed by the applicants and reviewed by the Committee.
3. Financial Issues: There are numerous significant financial issues to be examined, including a full examination of current and projected water rates and charges by both the Water Authority and MWD. The Committee must also identify all financial impacts and risks of detachment on Fallbrook, Rainbow, the Water Authority and its 22 other member agencies, the County of San Diego, and the region as a whole.

¹ See Rainbow Supplemental Information submittal to LAFCO, pages 5 and 6.

4. Bay-Delta and Other Environmental Issues: By proposing to detach from the Water Authority's diversified water portfolio and instead rely almost exclusively on MWD's sources of imported water, there would appear to be an inevitable increase in reliance on water imported from the environmentally sensitive Bay-Delta region. Additionally, with extensive construction proposed for detachment (at least in Rainbow), there are local environmental issues that must also be reviewed.
5. Governmental Issues: The proposed detachment seeks to move – at least for water purposes – Rainbow and Fallbrook out of San Diego County and into Riverside County. This raises a number of novel governmental issues that should be carefully reviewed by the Committee, including: (a) how San Diego County's representation at MWD will be affected; (b) how regional planning would be affected; and (c) how ongoing governmental functions such as annexations of land into districts would be affected, including which LAFCO would have jurisdiction over future water issues in Rainbow and Fallbrook .
6. Application Sufficiency/Accuracy: The detachment applications make numerous assertions about various projects, effects, etc., many of which are only partially discussed or identified. The Committee should work with the applicants and LAFCO staff to obtain a complete set of the factual assertions Fallbrook and Rainbow are relying on in filing the applications.

Obviously, the above topic areas may include sub-issues far beyond what can be listed here. However, the Water Authority believes that these six general areas must be included in the Committee's scope of work.

2. Consultants

What independent consultants would LAFCO need for the above areas? The Water Authority believes a minimum of three outside consulting firms would be required, covering topics 1, 3, and 4 above. They would include a water supply expert firm which could fully address topic area 1; a water rate and finance expert firm to cover topic area 3; and an environmental consulting firm to review all environmental matters (topic area 4).

Why does the Water Authority say a "minimum of three"? Because some topic areas may require more than one expert firm. For example, given the breadth and nature of topic number 1, and historical disputes between the parties, it is possible that more than one expert will need to be retained to cover that subject matter. Similarly, the financial topic (number 2 above) includes not just water rates and charges (which is a fairly unique expertise in the water industry), but also financial management, risks and effects. It is possible that one firm could be found to cover all issues, but it is also possible that the breadth of the subject matter and relevant issues would require multiple firms (for example, in addition to water rate expertise, a separate consultant for issues pertaining to other finance areas such as bonds, taxation, etc.).

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The Water Authority does not currently believe that topic areas 2, 5, or 6 require outside consultants for LAFCO. Topic area 2 on engineering issues is an identification issue, which identification could lead to possible environmental issues (covered by a consultant for topic 4), financial issues (covered by a consultant for topic 3), or pure engineering issues, which staff at the Water Authority, Fallbrook and Rainbow can address. Topic areas 5 and 6, governmental issues and application issues, likely can be covered by staff at all the agencies which are participating at LAFCO.

However, because water supply, financial matters, and environmental issues will require thorough *independent* review for LAFCO, these are areas the Water Authority believes should be reviewed by third party neutral experts to be agreed upon by all parties.

3. Conclusion

We look forward to working with the Committee, LAFCO staff, and all parties to proceed with the Committee process. Because you had noted that some Committee appointments were still tentative, we did not copy this letter to all persons on your initial list. We therefore ask that you please copy this letter to other Committee members not included on the below "cc" list. Thank you.

If you have any questions or need any further information, please feel free to contact me.

Very truly yours,



Sandra L. Kerl
General Manager

cc via email:

Dianne Jacob, Chair, San Diego LAFCO
Holly Whatley, Commission Counsel
Aleks Giragosian, Deputy Commission Counsel
Robert Barry, Chief Policy Analyst
Mark Hattam, General Counsel, San Diego County Water Authority
Kristina Lawson, Counsel, San Diego County Water Authority
Gary Thompson, Executive Officer, Riverside LAFCO
Jack Bebee, General Manager, Fallbrook PUD
Paula C. P. de Sousa, Counsel, Fallbrook PUD
Paul Jones, General Manager, Eastern MWD
Nick Kanetis, Deputy General Manager, Eastern MWD
Tom Kennedy, General Manager, Rainbow MWD
Alfred Smith, Counsel, Rainbow MWD
Water Authority Board of Directors